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November 14, 2019

BY ELECTRONIC DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington D.C. 20554

**Re: Permitted Written *Ex Parte* Notice
Wireless E911 Location Accuracy Requirements
PS Docket No. 07-114**

Dear Ms. Dortch:

NextNav, LLC (“NextNav”) herein responds and corrects certain errors that were included in the November 12 *ex parte* letter of APCO International (“APCO”) addressing its meeting with Commissioner Jessica Rosenworcel and her staff on November 7, 2019.¹ NextNav responds to APCO’s contentions in the same sequence that they were presented in its letter, regardless of their relative importance.

First, APCO claims that “9-1-1 professionals from major metropolitan areas” agree that vertical location information must include a floor number when callers are indoors.² NextNav acknowledges that a number of APCO members have recently submitted to the Commission variations on a template letter that express this position. Very few of these professionals, however, work in a major metropolitan area, most hailing from suburban or rural communities where vertical location information is less important. In contrast, the organizations representing fire fighters, police, sheriffs, EMS, and their chiefs have all expressed strong support for the immediate adoption of a 3 meter metric, describing it as highly actionable and effective in saving lives.

Second, APCO claims that, even if the Commission adopts a 3 meter vertical location metric, “[n]othing is in place to ensure the accuracy requirement set by the z-axis metric translates

¹ See Letter from Jeffrey S. Cohen, APCO Chief Counsel, and Mark S. Reddish, APCO Senior Counsel, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket 07-114 (Nov. 12, 2019) (“*APCO Letter*”).

² *Id.* at 1.

Marlene H. Dortch
November 14, 2019
Page 2

to real-world performance.”³ The Commission’s rules, however, already require carriers to validate the capabilities of any technology that is used for vertical location accuracy “through an independently administered and transparent test bed process.”⁴ Further, the Commission’s draft Fifth Report and Order would modify its rules to require carriers to provide for all wireless 911 calls z-axis “confidence and uncertainty information (C/U data) on a per-call basis upon the request of a PSAP.”⁵ Therefore, the current draft provides appropriate regulatory assurances that the z-axis metric will be reflected fully in real world performance.

Third, APCO claims that nothing in the Commission’s rules would ensure that the z-axis information that is generated by location technology vendors would be “accessible by public safety at all.”⁶ NextNav believes that claims of a gap in the Commission’s rules on this issue are overstated. Nevertheless, CTIA proposed⁷ and Apple has expressed support for⁸ a modification to the Commission’s proposed definition of z-axis capable handset to indicate that it must be able to both generate “and report” z-axis information to PSAPs absent a hardware upgrade. Therefore, to the extent this issue really exists, it is being addressed.

Fourth, despite ample evidence from numerous parties to the contrary, APCO continues to claim that “[t]echnologies exist today . . . that could produce a floor label (if not a dispatchable location).”⁹ The Commission’s draft order appropriately discounts the referenced sources that APCO has previously used as support for this claim.”¹⁰ APCO now cites to a newly filed letter

³ *Id.* at 1 n.1.

⁴ 47 C.F.R. § 9.10(i)(3)(i).

⁵ 47 C.F.R. § 9.10(j)(1).

⁶ *APCO Letter* at 1 n.1. APCO makes reference in footnote 1 of its letter to other issues raised by Apple and Google, but NextNav has fully addressed these collateral issues in its November 13, 2019 *ex parte* letter and in previous filings and NextNav does not repeat them here.

⁷ See Letter from Matt Gerst, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 07-114 at 2 (Nov. 5, 2019).

⁸ See Letter from Paul Margie, Counsel for Apple Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket 07-114 at 2 (Nov. 12, 2019).

⁹ *APCO Letter* at 1.

¹⁰ Wireless E911 Location Accuracy Requirement, FCC-CIRC1911-02, *Fifth Report and Order and Fifth Further Notice of Proposed Rulemaking*, PS Docket No. 07-114, ¶ 33, n.137 (Oct. 29, 2019) (“*draft Fifth Report and Order*” or “*draft Further Notice*”).

Marlene H. Dortch
November 14, 2019
Page 3

from Google,¹¹ but that letter is careful to not suggest that a reliable “floor label” approach is achievable today, explaining instead that “[r]esearch on floor label technologies is the next natural step” and urging the Commission to encourage such *research*.¹²

Fifth, APCO argues that the Commission’s adoption of a 3 meter metric would effectively mandate that wireless carriers employ the technologies of one of the two vendors that have already been demonstrated to be compliant with this requirement and further argues that such action would fail to incentivize the continued development of other technologies.¹³ In raising these arguments, APCO disregards the fact that carriers are continuing to test additional technologies (*i.e.*, the Z-axis testbed) and may have additional options available sufficiently in advance of the April 2021 first z-axis compliance deadline. As for sufficient incentives for continued research, the Commission’s draft Fifth Further Notice seeks comment on a range of options to continue to improve its vertical location requirements (such as combining the use of multiple location technologies) and seeks comment “on what additional steps we can take to facilitate our long-term location accuracy objectives.”¹⁴ Therefore, to the extent that such ‘start-up’ ventures as Google, Apple and Qualcomm actually need federal government incentive to continue engaging in location accuracy research, the Commission’s draft Fifth Further Notice amply provides this support.

Sixth, APCO argues that the Commission’s draft order would produce a worse result than what was originally proposed in 2014 in the Commission’s Third Notice of Proposed Rulemaking¹⁵ because the previously proposed rules would have required 3 meter vertical accuracy compliance nationwide (rather than in just the top 50 cellular market areas (“CMAs”)) and would have required compliance within five years¹⁶ (which APCO suggests would have been around 2020).¹⁷ Here, NextNav agrees that the Commission’s original proposal in its Third Further Notice was more aggressive. APCO must acknowledge, however, that it was instrumental

¹¹ See *APCO Letter* at 1 (*citing* Letter from Megan Anne Stull, Counsel to Google LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket 07-114, at 2 (Nov. 8, 2019) (“*Google Letter*”)).

¹² *Google Letter* at 3; *see also id.* at 1 (*emphasis added*) (seeking regulatory language that “encourages rather than discourages the continued development of floor-identifying geolocation technologies”).

¹³ *APCO Letter* at 2.

¹⁴ *Draft Fifth Further Notice*, ¶ 59.

¹⁵ See Wireless Location Accuracy Requirements, PS Docket No. 07-114, *Third Further Notice of Proposed Rulemaking*, FCC 14-14 (Feb. 21, 2014) (“*Third Further Notice*”).

¹⁶ *See id.*, ¶ 3.

¹⁷ *APCO Letter* at 2.

Marlene H. Dortch
November 14, 2019
Page 4

in teaming with CTIA to develop the Roadmap, which replaced the Commission's original proposal, and the clock cannot be turned back. Therefore, the only constructive approach is to immediately adopt the 3 meter metric proposal that is currently supported by the record and seek improvements going forward.

Regarding potential expansion of z-axis requirements beyond the Top 50 CMAs, NextNav has previously supported allowing wireless carriers an alternative compliance approach of providing z-axis capability to 80 percent of buildings in excess of three stories, rather than 80 percent of the population,¹⁸ which the Commission addresses as an option in its Fifth Further Notice.¹⁹ NextNav would support applying the alternative approach of 80 percent of buildings in excess of three stories on a nationwide basis and believes that the existing record already contains significant support for this approach from both carriers²⁰ and public safety.²¹

Seventh, APCO makes a somewhat breathtaking claim that the Commission "should be solving a 9-1-1 problem, not a responder location problem"²² and "[e]nsuring first responders have location technology for use cases such as finding incapacitated firefighters is not the role of the Commission."²³ Nothing in the record suggests that the Commission cannot solve both problems and it is undeniable how strongly all other public safety organizations feel about protecting the health and safety of their own members. Nevertheless, APCO seems to be asserting that the Commission's statutory obligation to serve the public interest does not extend to protecting the lives of emergency first responders. Congress, however, has clearly stated otherwise. For example, Congress directed the Commission to assist in the creation of FirstNet,²⁴ which was developed in response to 9/11 during which the lives of more than 400 firefighters and police were lost at the World Trade Center, in part because of interoperability and in building communication problems between radios.

¹⁸ See Comments of NextNav, LLC, PS Docket No. 07-114 at 19 (May 20, 2019).

¹⁹ See *draft Fifth Further Notice*, ¶ 67.

²⁰ See Reply Comments of T-Mobile USA, Inc., PS Docket No. 07-114 at 3 (June 18, 2019); Comments of Verizon, PS Docket No. 07-114 at 5 (May 20, 2019).

²¹ See Reply Comments of The International Association of Fire Fighters, PS Docket No. 07-114, at 4-5 (June 18, 2019).

²² *APCO Letter 2*.

²³ *Id.* at 2 n.3.

²⁴ See Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) (including provisions requiring the creation and provision of spectrum to FirstNet).

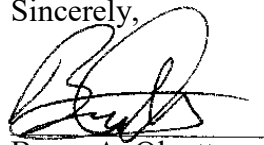
Marlene H. Dortch
November 14, 2019
Page 5

Eighth, APCO reiterates claims that were made more than a year ago by CTIA that the independently managed z-axis test results might not be representative of real-world conditions.²⁵ NextNav addressed these concerns in filings made in 2018²⁶ and CTIA has since revised its position, acknowledging that while full commercialization efforts remain to be completed, the 3 meter vertical metric “offers a reasoned approach to the definition of floor level accuracy as part of the proposed z-axis metric.”²⁷ And CTIA members, such as AT&T, have explained that “[t]o ensure that the new standard is clear *and achievable*, the Commission should revise the z-axis metric in proposed rule 20.18 to read: “within 3 meters above or below (plus or minus 3 meters) the handset for 80% of all wireless E911 calls made from z-axis capable devices.”²⁸

The litany of concerns and suggested improvements APCO continues to raise do highlight the need for continued industry effort and Commission oversight, a position of unanimous agreement among all commenters in the record. Those concerns, the development of alternate compliance approaches and continued improvements in accuracy are the express reasons for the Fifth Further Notice. Therefore, the Commission should promptly adopt its 3 meter vertical location metric in order to provide a substantial lifesaving benefit to the general public and first responders, while also aggressively exploring further improvements in its Fifth Further Notice.

Thank you for your attention to this matter. Please contact the undersigned if you have any questions.

Sincerely,


Bruce A. Olcott

²⁵ *APCO Letter at 2* (citing Letter from Scott K. Bergmann, Senior Vice President of Regulatory Affairs, CTIA, *et al.*, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 07-114 (Aug. 3, 2018)).

²⁶ *See generally* Comments of NextNav, LLC, PS Docket No. 07-114 (Oct. 1, 2018).

²⁷ Comments of CTIA, PS Docket No. 07-114, at 9 (May 20, 2019) (observing in these same comments that CTIA “is not aware of any z-axis technology solutions that can produce specific floor level information”).

²⁸ *See* Comments of AT&T, PS Docket No. 07-114, at 3 (May 20, 2019) (*emphasis added*).